

In re:
Louis Lanni
Debtor

Case No. 23-11122-mdc
Chapter 13

CERTIFICATE OF NOTICE

District/off: 0313-2

User: admin

Page 1 of 3

Date Rcvd: Feb 01, 2024

Form ID: pdf900

Total Noticed: 21

The following symbols are used throughout this certificate:

Symbol **Definition**

- + Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Feb 03, 2024:

| Recip ID | Recipient Name and Address |
|-----------------|--|
| db | + Louis Lanni, 914 Clinton Street, Philadelphia, PA 19107-6108 |
| 14776565 | + DAVID FASONE, 1123 MCCLELLAN STREET, Philadelphia, PA 19148-2101 |
| 14793527 | + David Fasone, c/o Michael I. Assad, Esq, 1500 Walnut Street, Ste 900, Philadelphia, PA 19102-3518 |
| 14776567 | + ROMANO GARUBO AND ARGENTIERI, 52 NEWTON AVE, P.O. BOX 456, Woodbury, NJ 08096-7456 |
| 14774837 | + U.S. Bank National Association, c/o Emmanuel J. Argentieri, Esq. 52 Newton Avenue, P O Box 456, Woodbury NJ 08096-7456 |

TOTAL: 5

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

| Recip ID | Notice Type: Email Address | Date/Time | Recipient Name and Address |
|-----------------|---|----------------------|--|
| smg | Email/Text: megan.harper@phila.gov | Feb 02 2024 00:26:00 | City of Philadelphia, City of Philadelphia Law Dept., Tax Unit/Bankruptcy Dept, 1515 Arch Street 15th Floor, Philadelphia, PA 19102-1595 |
| smg | Email/Text: RVSVCBICNOTICE1@state.pa.us | Feb 02 2024 00:26:00 | Pennsylvania Department of Revenue, Bankruptcy Division, P.O. Box 280946, Harrisburg, PA 17128-0946 |
| cr | + Email/PDF: acg.acg.ebn@aisinfo.com | Feb 02 2024 00:31:06 | Ally Financial, c/o AIS Portfolio Services, LLC, 4515 N Santa Fe Ave. Dept. APS, Oklahoma City, OK 73118-7901 |
| cr | Email/Text: megan.harper@phila.gov | Feb 02 2024 00:26:00 | CITY OF PHILADELPHIA, Tax & Revenue Unit, 1401 JOHN F. KENNEDY BLVD., 5TH FLOOR, Major Tax Litigation Division, Philadelphia, PA 19102-1595 |
| 14775702 | + Email/PDF: acg.acg.ebn@aisinfo.com | Feb 02 2024 00:30:49 | Ally Financial, AIS Portfolio Services, LLC, 4515 N Santa Fe Ave. Dept. APS, Oklahoma City, OK 73118-7901 |
| 14776563 | Email/PDF: AIS.cocard.ebn@aisinfo.com | Feb 02 2024 00:31:30 | CAPITAL ONE BANK, 15000 CAPITAL ONE DRIVE, Richmond, VA 23238 |
| 14776564 | + Email/PDF: AIS.cocard.ebn@aisinfo.com | Feb 02 2024 00:31:34 | CAPITAL ONE BANK, P. O. BOX 31293, Salt Lake City, UT 84131-0293 |
| 14821166 | Email/Text: megan.harper@phila.gov | Feb 02 2024 00:26:00 | City of Philadelphia, c/o PAMELA ELCHERT THURMOND, Law/Revenue Department, Mun. Serv. Bldg., 1401 John F. Kennedy Blvd., 5th Floor, Philadelphia, PA 19102 |
| 14818392 | Email/Text: megan.harper@phila.gov | Feb 02 2024 00:26:00 | City of Philadelphia Law Department, Tax & Revenue Unit, Bankruptcy Group, MSB, 1401 John F. Kennedy Blvd., 5th Floor, Philadelphia, PA 19102-1595 |
| 14800727 | Email/Text: megan.harper@phila.gov | Feb 02 2024 00:26:00 | Water Revenue Bureau, c/o City of Philadelphia Law Department, Tax & Revenue Unit, Bankruptcy Group, MSB, 1401 John F. Kennedy Blvd., 5th Floor, Philadelphia, PA 19102-1595 |
| 14783638 | + Email/PDF: ebn_ais@aisinfo.com | Feb 02 2024 00:30:50 | Capital One N.A., 4515 N Santa Fe Ave, Oklahoma City, OK 73118-7901 |

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|----------|--|----------------------|--|
| 14776566 | + Email/Text: sbse.cio.bnc.mail@irs.gov | Feb 02 2024 00:26:00 | INTERNAL REVENUE SERVICE, CENTRALIZED INSOLVENCY OPERATION, P.O. BOX 7346, Philadelphia, PA 19101-7346 |
| 14776568 | + Email/Text: nsm_bk_notices@mrcopner.com | Feb 02 2024 00:26:00 | RUSHMORE LOAN MANAGEMENT SERVICES, LLC, CUSTOMER CARE DEPT, P.O. BOX 55004, Irvine, CA 92619-5004 |
| 14790476 | + Email/Text: nsm_bk_notices@mrcopner.com | Feb 02 2024 00:26:00 | U.S. Bank National Association as Legal Title Trus, c/o Rushmore Loan Management Services, P.O. Box 55004, Irvine, CA 92619-5004 |
| 14776569 | + Email/Text: wfmelectronicbankruptcynotifications@verizonwireless.com | Feb 02 2024 00:25:00 | VERIZON, P.O. BOX 650584, Dallas, TX 75265-0584 |
| 14790373 | + Email/PDF: ebn_ais@aisinfo.com | Feb 02 2024 00:30:50 | Verizon, by American InfoSource as agent, 4515 N Santa Fe Ave, Oklahoma City, OK 73118-7901 |

TOTAL: 16

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

| Recip ID | Bypass Reason | Name and Address |
|----------|---------------|--|
| cr | *+ | David Fasone, 1123 McClellan Street, Philadelphia, PA 19148-2101 |
| 14790477 | *+ | U.S. Bank National Association as Legal Title Trus, c/o Rushmore Loan Management Services, P.O. Box 55004, Irvine, CA 92619-5004 |

TOTAL: 0 Undeliverable, 2 Duplicate, 0 Out of date forwarding address

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Feb 03, 2024

Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on February 1, 2024 at the address(es) listed below:

| Name | Email Address |
|------------------------|--|
| EMMANUEL J. ARGENTIERI | on behalf of Creditor U.S. Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust bk@rgalegal.com |
| KENNETH E. WEST | ecfemails@ph13trustee.com philaecf@gmail.com |
| KENNETH E. WEST | on behalf of Trustee KENNETH E. WEST ecfemails@ph13trustee.com philaecf@gmail.com |
| MAGGIE S SOBOLESKI | on behalf of Debtor Louis Lanni msoboles@yahoo.com 3532@notices.nextchapterbk.com |
| MICHAEL I. ASSAD | on behalf of Creditor David Fasone mail@cibiklaw.com cibiklawpc@jubileebk.net;cibiklaw@recap.email;ecf@casedriver.com;ecf@kramerica.enterprises;ecf@michaelscottpaper.co;ecf@nalabean.gg |

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PAMELA ELCHERT THURMOND

on behalf of Creditor CITY OF PHILADELPHIA pamel Thurmond@phila.gov

United States Trustee

USTPRegion03.PH. ECF@usdoj.gov

TOTAL: 7

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA

In re: : Chapter 13
Louis Lanni, :
Debtor. : Bankruptcy No. 23-11122-MDC

O R D E R

AND NOW, on April 25, 2023, U.S. Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust (the “Movant” or US Bank) filed the *Motion By US Bank NA as Legal Title Trustee For Truman 2016 Sc6 Title Trust In Support Of Motion For Relief From The Automatic Stay; Providing Prospective In Rem Relief From Stay As To Debtor; Non-Filing Debtor Michael Connor; And/Or Any Other Individual Or Entity Claiming An Interest In The Subject Property; Or In The Alternative Movant Requests An Order Directing That The Rents Generated By The Property Be Turned Over To Movant* (“Motion for Relief from Stay”).¹

AND, on September 29, 2023, Movant filed the Motion by *Motion By US Bank NN As Legal Title Trustee For Truman 2016 Sc6 Title Trust In Support Of An Order Directing Trustee To Turnover Funds Being Held For Adequate Protection And Precluding Debtor's Use Of Its Cash Collateral Designee, And That Debtor Is Precluded From Using Same To Fund Plan; Waiving The 14-Day Requirement Of Rule 4001 (A)(3); And If Case Has Been Dismissed Or Closed, To Reinstate And/Or Reopen For Purposes of Adjudicating This Motion To Certain Real Property [sic]* (the “Turnover Motion”).²

AND, on October 27, 2023, this Court held a hearing (the “Hearing”) on the Motion for Relief from Stay and the Turnover Motion (together the “US Bank Motions”).

AND, at the Hearing, the Movant and the debtor, Louis Lanni (the “Debtor” and together with the Movant, the “Parties”), agreed to settle the US Bank Motions, whereby the Parties agreed, among other things, that (1) US Bank would be granted relief from the automatic stay to proceed with foreclosure

¹ Bankr. Docket No. 8.

² Bankr. Docket No. 59.

proceedings against the real property located at 914 Clinton Street, Philadelphia, and (2) certain mortgage-related funds the Debtor mistakenly paid to the chapter 13 trustee rather than to the Movant, and that the chapter 13 Trustee continued to hold (the “Held Funds”), would be turned over to US Bank as adequate protection payment.

AND, at the Hearing the Court approved the proposed settlement of the Motion for Relief but declined to approve the proposed settlement of the Turnover Motion because the Debtor’s proposed chapter 13 plan had not been confirmed, thereby implicating 11 U.S.C. §1326(a)(2)’s provision that a debtor’s payments to the chapter 13 trustee “shall be retained by the trustee until confirmation or denial of confirmation.”

AND, the Court therefore directed the Parties to submit briefs regarding the Court’s authority to direct the chapter 13 trustee to turnover the Held Funds to US Bank as adequate protection payment.

AND, on November 2, 2023, Movant submitted a *Letter Brief in support of Court Order granting last settlement terms as to the turnover of funds by the Chapter 13 Trustee* [sic] (the “Letter Brief”) contending, among other things, that although there was no case directly on point addressing the issue, the Court should direct the Trustee to turn over the Held Funds to the Movant.³

AND, on November 16, 2023, the Debtor submitted a response in opposition to the Letter Brief arguing that compelling the chapter 13 trustee to turn over funds in the absence of a confirmed plan violated the provisions of §1326(a)(2) (the “Debtor’s Response”).⁴

AND, on November 20, 2023, US Bank filed a response in opposition to the Debtor’s Response alleging that the Debtor’s filing was inappropriate and should be precluded because the Debtor had agreed to the settlement terms and was utilizing the Court’s inquiry as an opportunity to renege on a portion of the Parties’ proposed settlement.⁵

³ Bankr. Docket No. 84.

⁴ Bankr. Docket No. 86.

⁵ Bankr. Docket No. 89.

AND, pursuant to 11 U.S.C. §1326(a)(2), “[a] payment made under paragraph (1)(A) *shall* be retained by the trustee until confirmation or denial of confirmation.” (emphasis added). Here, there has been no confirmation or denial of confirmation. As such, §1326(a)(2) requires that the trustee retain the payments until either event occurs. Further, as held by the Third Circuit in *In re: FTX Trading LTD.*, “‘shall’ in a statute is interpreted as ‘must,’ which means ‘shall’ signals when a court must follow a statute’s directive regardless of whether it agrees with the result.” 2024 WL 204456, at *4 (3d Cir. Jan. 19, 2024); *see also Scott v. Vantage Corp.*, 64 F.4th 462, 477 (3d Cir. 2023) (“Accordingly, pursuant to the plain meaning of ‘shall,’ a district court *must* impose Rule 11 sanctions when it finds Rule 11 violations in proceedings governed by the PSLRA.”). Accordingly, this Court has no authority to direct the Trustee to act in contradiction of the provisions of the statute.

AND, upon consideration of the Motion and the Letter, and for all reasons stated herein, it is hereby **ORDERED** and **DETERMINED** that the Motion is **DENIED**.

Dated: February 1, 2024



MAGDELINE D. COLEMAN
CHIEF UNITED STATES BANKRUPTCY JUDGE